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Senate Finance Ways, and Means Committee Amendment No. 1

AMENDMENT NO.________________

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Signature of Sponsor

AMEND Senate Bill No. 1883 **House Bill No. 1895**

by deleting all language following the enacting clause and by substituting instead the following:

Section 1. Tennessee Code Annotated, Section 67-4-906(a), is amended by deleting subdivision (1) in its entirety and substituting instead the following:

(1) The measure of the tax hereby imposed shall in no case be less than the actual value of the property owned, or property used, in Tennessee, excluding exempt inventory.

Tennessee Code Annotated, Section 67-4-906(a), is further amended by adding the following new subdivisions:

(8) "Exempt inventory" shall mean that portion of a corporation's finished goods inventory in excess of fifty million dollars ($50,000,000) for corporate fiscal years beginning on or after July 15, 1996, forty million dollars ($40,000,000) for corporate fiscal years beginning on or after July 15, 1997, and thirty million dollars ($30,000,000) for corporate fiscal years beginning on or after July 15, 1998, that would otherwise be included in the minimum measure of the corporation's franchise tax base.

(9) "Finished goods inventory" means tangible personal property which is:

(A) Owned by the taxpayer;

(B) Shown on the taxpayer's books and records kept in accordance with Generally Accepted Accounting Principles;

(C) Held for wholesale or retail sale; and

(D) In need of no further fabrication or processing by or for the owner; except, in the case of configuring, testing or packaging of computer products.

(10) "Configuring" computer products means integrating a computer with peripheral computer products, such as a hard disk drive, additional memory or software.

Section 2. Tennessee Code Annotated, Section 67-4-910(b), is amended by deleting the subdivision (1) in its entirety and substituting instead the following:

(1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property, excluding exempt inventory as defined in Tennessee Code Annotated, Section 67-4-906(a)(8), owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property, excluding exempt inventory, owned or rented and used during the tax period.

Section 3. Tennessee Code Annotated, Section 67-6-102, subsection (12), is amended by adding at the end of the subsection the following new subdivision:

(G) Material handling equipment and racking systems, used by a corporation subject to Tennessee franchise, excise taxes, directly and primarily for the storage or handling and movement of tangible personal property in a qualified, new or expanded warehouse or distribution facility, which are purchased beginning one (1) year prior to the start of the construction or expansion and ending one (1) year after the substantial completion of the construction or expansion of the facility, but in no event shall the period exceed three (3) years. A "qualified, new or expanded warehouse or distribution facility" means a new or expanded facility, which meets the requirements set out herein, for the storage or distribution of finished tangible personal property. Such facilities shall not include a building where tangible personal property is fabricated, processed, assembled or sold over-the-counter to consumers, except for taxpayers which qualify under the provisions of Public Chapter 185 of the 1995 Public Acts or are configuring, testing or packaging computer products. "Configuring" computer products means integrating a computer with peripheral computer products, such as a hard disk drive, additional memory or software. A qualifying facility must also be:

(i) A warehouse or distribution facility constructed in this state through an investment in excess of ten million dollars ($10,000,000) by the taxpayer, and/or a lessor to the taxpayer, over a period not exceeding three (3) years, in a newly constructed and previously unoccupied building(s) and/or equipment for the facility; or

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(ii) An expansion to an existing warehouse or distribution facility, previously qualified under subdivision (G)(i), through an additional investment in excess of ten million dollars ($10,000,000) by the taxpayer, and/or a lessor to the taxpayer over an additional period not exceeding three (3) years, for additions to the building(s) and the purchase of new equipment for use in the expanded facility.

Section 4. A taxpayer shall qualify for the exemption afforded to material handling and racking systems under Section 3 of this Act by submitting an application to the Commissioner of Revenue for the exemption, together with a plan describing the investment to be made. The application and plan shall be submitted on forms prescribed by the Commissioner of Revenue. The plan shall demonstrate that the requirements of the law will be met. Upon approval of the exemption request and plan for investment, purchases of the equipment may be made without payment of the sales or use tax. However, if the requisite investment is not made in the time period required, or the terms of the statute are not met, the taxpayer shall be subject to assessment for any tax, penalty or interest which would otherwise have been due.

Section 5. This act shall take effect upon becoming law, the public welfare requiring it. Section 3 and Section 4 of this act shall apply to investments in facilities and purchases of equipment made on or after April 1, 1995.